



GAO

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United States General Accounting Office
Washington, DC 20548

B-300373

December 20, 2002

The Honorable C.W. Bill Young
Chairman
The Honorable David R. Obey
Ranking Minority Member
Committee on Appropriations
House of Representatives

The Honorable Robert C. Byrd
Chairman
The Honorable Ted Stevens
Ranking Minority Member
Committee on Appropriations
United States Senate

Subject: Continuing Resolution Mandate to Identify Accounts for Which
Apportionments Differ From the Current Rate

Section 134 (d)(2) of the Fiscal Year 2003 Continuing Resolution, as amended by Public Law 107-240, required the Comptroller General to identify executive branch accounts for which apportionments made from funds appropriated or authority granted by the joint resolution provide for a rate of operations that differs from the current rate.

Current rate is defined by the continuing resolution as having the same meaning given to the term by Office of Management and Budget Bulletin No. 01-10, i.e., the net amount enacted in FY 2002 (plus supplementals and minus rescissions), plus unobligated balances carried forward from FY 2001 (if any), minus unobligated balance at the end of FY 2002 (if any). This amount is multiplied by the lower of: the percentage of the year covered by the continuing resolution (the prorata rate), or the historical seasonal rate of obligations for the period of the year covered by the continuing resolution (the seasonal rate). Furthermore, the continuing resolution directs that any unobligated balances carried over from Public Law 107-38 (except funds transferred by division B of Public Law 107-117) and specific nonrecurring/one-time spending items not be included in the "current rate" calculation.

On December 10, 2002, we briefed your offices on the results of our work. This report transmits the materials that formed the basis for that briefing.

Results in Brief

Of the one hundred twenty accounts we reviewed, we found the following:

- Only one account, the salaries and expenses (S&E) account of the National Science Foundation (NSF), was not apportioned in accordance with the continuing resolution. NSF used a prorated current rate of 14.94 percent (based on compensable days) instead of 14.52 percent (53/365). NSF advised that this was necessary to permit them to meet payroll. The Office of Management and Budget (OMB) advised us that NSF did not request a written higher apportionment for its S&E account. After discussions with GAO, NSF informed us that it has now reapportioned continuing resolution funding (October 1 to January 11) based on calendar days.
- For six accounts OMB provided a written higher apportionment (two of the accounts were apportioned at higher than the seasonal rate but lower than the prorata rate).
- For most of the other accounts the apportionments were on a prorata basis, i.e., 14.52 percent (53/365 days).
- Six accounts used a lower seasonal rate.
- For seven accounts the current rate is inapplicable for various reasons (see Appendix I of enclosure). For example, for the Department of Housing and Urban Development, Public & Indian Housing Programs, Housing Certificate Fund, HUD advised that it is using available FY 2001 unobligated balances. Therefore, it stated that no apportionment of FY 2003 budget authority is necessary.

Appendix I of the enclosure contains lists of the accounts selected for review, accounts for which the current rate is not applicable, accounts that had seasonal apportionment, and accounts that received a written apportionment from OMB. You also requested a list of all accounts that had one-time expenditures as listed in OMB Bulletin 02-06. We will provide these separately.

Scope and Methodology

As agreed with your staff, we selected a sample of accounts to examine. First, we excluded accounts in the legislative and judicial branches as outside the scope of the section's coverage. In addition, we excluded accounts covered by an enacted appropriation (the Department of Defense and the Military Construction Appropriations Acts) and the appropriation for the District of Columbia. We then

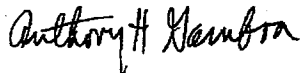
drew a sample of the largest discretionary accounts under each subcommittee for each agency. This yielded a sample that included all twenty-four Chief Financial Officer agencies. Committee staff added other accounts of particular interest. This yielded one hundred twenty accounts in thirty-one agencies.

We requested documents, interviewed knowledgeable officials, compared the agencies' math with our math, and followed up any differences with agency officials. Generally, the officials provided technical clarifications that resolved or explained the differences.

Supplemental appropriations, one-time spending items, and historical seasonal rates were not independently verified. We performed our work on this assignment from October to December 2002. Since we received information directly from the agencies and discussed any differences directly with agency staff, we did not seek written comments. A detailed description of our methodology is included in the enclosure.

This work was done under the direction of Susan A. Poling, Associate General Counsel, and Susan Irving, Director for Federal Budget Analysis, Strategic Issues. If you or your staff have any questions on the matters discussed in this report, you may contact them at 202-512-5644 or 202-512-9142. Major contributors to this report were Carlos Diz, Denise Fantone, Jacqueline Nowicki, Hannah Laufe, and Alice Feldesman.

Sincerely yours,



Anthony H. Gamboa
General Counsel

Enclosure

Continuing Resolution Current Rate Report

House & Senate Appropriations
Committees

Continuing Resolution (CR) Mandate: Requirement

Section 134(2) of the Fiscal Year 2003 Continuing Resolution, Public Law 107-229, as amended by Public Law 107-240, requires the Comptroller General to identify executive branch accounts for which apportionments made from funds appropriated or authority granted by the joint resolution provide for a rate of operations that differs from the current rate, within the meaning of sections 101 and 105, and report findings to the Committees on Appropriations.

Scope: Account Coverage

- We excluded accounts covered by enacted appropriations [Military Construction and Department of Defense]; D.C., Legislative & Judicial Branches.
- We drew a sample of largest discretionary accounts under each subcommittee for each agency; included all 24 CFO agencies plus others.
- Appropriations Committee staff added other accounts of particular interest.
- Results: 120 accounts in 31 agencies. [see Appendix I for list].

Results: What we found

- Only one account, the salaries and expenses account of the National Science Foundation (NSF), was not apportioned in accordance with the continuing resolution. NSF used a prorated current rate of 14.94% based on compensable days instead of 14.52% (53/365). NSF advised us that this was necessary to permit them to meet payroll. OMB advised us that NSF did not request a written higher apportionment for its S&E account but would have provided one if necessary to permit NSF to meet payroll. After discussions with GAO, NSF informed us that it has now reapportioned continuing resolution funding (October 1 to January 11) based on calendar days.
- For six accounts OMB provided a written higher apportionment (two of the accounts were apportioned at higher than the seasonal rate but lower than the prorata rate).
- For most of the other accounts the apportionments were calculated on a prorata basis, i.e., 14.52% (53/365 days).

Results: What we found (cont'd)

- Six accounts used a seasonal rate for their automatic apportionments (see Appendix I).
- For seven accounts the current rate appeared not to be applicable for various reasons, e.g., Housing and Urban Development [using 2001 unobligated balances; no 2003 continuing resolution apportionment necessary], civil service retirement & disability fund [administrative funds transferred to S&E account and apportioned there] (see Appendix I for complete list of these accounts).

Methodology: Process

- Sent letter to each department/agency head describing mandate, listing accounts to be covered, requesting point of contact for each account, documents, and the agency's "CR math"-- i.e., how agency computed its current rate.
- Conducted structured phone interview with agency contact for each account.
- Since we received information directly from the agencies and discussed any differences directly with agency staff, we did not seek written comments.

Methodology cont'd

- GAO staff analyzed documents submitted & independently calculated the current rate for each account. This calculation was compared to the CR math provided by agency. Also examined interviews to check for consistency.
- Made follow-up phone calls to agencies to clarify any differences in CR math between agency documents and GAO calculations.

Agency Cooperation

- Agencies were largely cooperative. For a few it took more effort and persistence to obtain information:
 - GSA, USDA & Transportation required repeated requests & persistent follow up to get documents & CR math.
 - AID sent documents but knowledgeable staff were unavailable in a timely manner.

Limitations

Given the way Continuing Resolutions work, particularly this fiscal year's CR, there are limitations in this methodology:

- Agencies provided SF 132s for unobligated balances carried over from FY '02 to '03 but no documentation for what agencies describe as current actual unobligated balances.
- Unless an agency is requesting a variance, the OMB Bulletin authorizes an automatic apportionment in lieu of an approved SF 132.
- Supplementals, one-time spending items, and historical seasonal rates were not independently verified.
- Across-the-board rescissions of administrative and travel funds were not independently verified.

Results: CR Math

- Where there was a difference between GAO document review and agency CR math, GAO called to obtain an understanding of the difference
 - Note: difference of \$1 million or less was considered de minimus.
 - In general, professional budget staff in agencies were familiar with rules.

CR Math: Typical Differences

- Differences between GAO document review and agency math were found most frequently in these categories:
 - Calculation of estimated unobligated balances carried over from FY '01 into '02.
 - Calculation of estimated unobligated balances carried over from FY '02 into '03.
 - Executive branch-wide rescissions made in fiscal year 2002 specified by agencies.
- Missing documents not transmitted in first response to GAO request for documents often contained clarifying information.

One-Time Exclusions

There were several instances in which agencies excluded one-time, non-recurring items from their CR math calculations. These one-time exclusions were not independently verified. GAO will provide a list to the Appropriation Committees separately.

Appendix I: Account Information

- Accounts selected for review
- Accounts for which current rate calculation is inapplicable
- Accounts for which seasonal apportionment was used
- Accounts which received written apportionment from OMB

Appendix I: Original List of Accounts

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| Department/A gency | Bureau | Account |
|-----------------------|------------------------------------|---|
| Interior | NPS | Operation of the national park system |
| Interior | Office of Special Trustee for | Office of Special Trustee for American |
| Interior | USGS | Surveys, investigations, & research |
| Justice | FBI | Salaries and expenses |
| Justice | Federal Prison System | Salaries and expenses |
| Justice | INS | Immigration enforcement |
| Justice | | |
| Justice | Legal Activities and U.S. Marshals | Salaries and expenses, U.S. Attorneys |
| Justice | Office of Justice Programs | State & Local Law Enforcement Assistance -Local law enforcement block grants |
| Justice | | Community Oriented Policing Services – Public safety & community policing grants |
| Justice | | Justice Assistance |
| Labor | Departmental management | Salaries and expenses |
| Labor | ETA | Training & employment services |

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| Department/Agency | Bureau | Account |
|-------------------|--|---|
| Energy | | Fossil energy research & development |
| HHS | FDA | Salaries and expenses |
| HHS | CDC | Disease control, research & training |
| HHS | Agency for Health Care, Research & Quality | Health care, research & quality |
| HHS | Administration on Aging | Aging services programs |
| HHS | NIH | Buildings & Facilities |
| HHS | NIH | NIAID |
| HHS | ACF | Children & families services programs |
| HHS | | Low income home energy assistance |
| HHS | HRSA | Health resources & services |
| HHS | Departmental Management | Public health & social services –emergency fund |
| HUD | Public & Indian Housing Programs | Housing certificate fund |
| HUD | | Public housing operating fund |
| HUD | Community Planning & Development | Community development block grants |
| HUD | | Homeless assistance grants |
| Interior | Bureau of Reclamation | Water & related resources |
| Interior | | Central Valley project restoration fund |
| Interior | BIA | Operation of Indian programs |

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| Department/A gency | Bureau | Account |
|-----------------------|--|---|
| USDA | Food & Nutrition Service | Special supplemental nutrition program for women, infants, & children (WIC) |
| USDA | Agricultural Research Service | Salaries and expenses |
| USDA | Farm Service Agency | Salaries and expenses |
| USDA | | Agricultural credit insurance fund program |
| USDA | Animal & Plant Health Inspection | Salaries and expenses |
| USDA | Natural Resources Conservation | Conservation operations |
| USDA | Rural Housing Service | Rural housing insurance fund program |
| USDA | Foreign Assistance Programs | Public Law 480 Title II grants |
| USDA | Forest Service | Wildland fire management |
| USDA | Forest Service | National forest system |
| USDA | Forest Service | Capital improvement & maintenance |
| Commerce | | Procurement, acquisition & construction |
| Commerce | | Operations, research and facilities |
| Commerce | Bureau of the Census – | Periodic censuses and programs |
| Commerce | International Trade Administration | Operations & administration |
| Education | Office of Student Financial Assistance | Student financial assistance |
| Education | Office of Elementary & Secondary Education | Impact Aid |
| Education | Departmental Management | Program administration |
| Energy | NNSA | Weapons activities |
| Energy | Environmental & Other Defense | Defense environmental restoration & waste |
| Energy | Energy Programs | Science |
| Energy | Energy Programs | Energy conservation |

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| Department/Agency | Bureau | Account |
|-------------------|---|---|
| Labor | | Community service employment for older Americans |
| Labor | OSHA | Salaries and expenses |
| State | Administration of Foreign Affairs | Diplomatic & consular programs |
| State | | Embassy security construction |
| State | International Organizations & Conferences | Contributions to international organizations |
| State | Other | International narcotics control & law enforcement |
| State | | Nonproliferation, antiterrorism, demining, and related programs |
| State | | International organizations and programs |
| State | | Andean Counter Drug Initiative |
| State | | Migration and Refugee Assistance |
| Transportation | Maritime Administration | Operations & training |
| Transportation | | |
| Transportation | | Title XI Loans |
| Transportation | FAA | Trust fund share of FAA operations |
| Transportation | | Facilities & equipment |
| Transportation | | Grants-in-aid for airports |

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| Department/Agency | Bureau | Account |
|-------------------|---|--|
| Transportation | Coast Guard | Operating expenses |
| Transportation | | Acquisitions, construction, & improvements |
| Transportation | Office of the Secretary | Payments to air carriers |
| Transportation | | Salaries and expenses |
| Transportation | Federal Highway Administration | Federal-aid highways (Ob limits) |
| Transportation | Federal Railroad Administration | Capital grants to National Railroad Passenger Corporation |
| Transportation | Federal Transit Administration | Capital Investment Grants |
| Transportation | | Formula Grants |
| Transportation | RSPA Administration | Trust fund share of pipeline safety |
| Transportation | General Provisions | Surface transportation projects – Title III General Provisions § 330 of FY2002 Appropriation |
| Transportation | Federal Motor Carrier Safety Administration | Motor carrier safety -limitation on administrative expenses |
| Transportation | | Border enforcement program |
| Transportation | Transportation Security Admin. | Salaries & Expenses |
| Treasury | IRS | Processing, assistance, & management. |

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| Department/Agency | Bureau | Account |
|--|---|--|
| Treasury | IRS | Tax law enforcement |
| Treasury | U.S. Customs Service- | Salaries and expenses - |
| VA | VHA | Medical care |
| VA | Departmental Administration | General operating expenses |
| VA | VHA | Medical and prosthetic research |
| AID | AID | Economic support fund |
| AID | AID | International Disaster Assistance |
| AID | AID | Child survival and disease programs |
| AID | AID | Sustainable development assistance programs |
| Corp. for National & Community Service | Corp. for National & Community Service 86 | National & community service programs, operating expenses |
| Corporation for Public Broadcasting | Corporation for Public Broadcasting | Corporation for Public Broadcasting - digital program conversion |
| Corps of Engineers | Corps of Engineers | Construction, general |
| | | |
| EPA | EPA | State & tribal assistance grants |
| EPA | | Environmental programs & management |
| EPA | | Hazardous substance superfund |
| | | |
| | | |

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| EXOP | Special Assistance to the President & the Official Residence of the Vice-Pres. | Salaries and expenses |
| EXOP | | Operating expenses |
| EXOP | Office of Administration | Salaries and expenses |
| EXOP | OMB | Salaries and expenses |
| FEMA | FEMA | Disaster relief |
| FEMA | | Emergency management planning & assistance |
| FEMA | | Salaries and expenses |
| FCC | FCC | Salaries and expenses |
| GSA | Real Property Activities | Federal building fund |
| GSA | General Activities | Operating expenses |
| GSA | | Policy & citizen services |
| NASA | NASA | Science, aeronautics & technology |
| NASA | | Human space flight |
| NSF | NSF | Research & related activities |
| NSF | | Education & human resources |
| NSF | | Salaries and expenses |
| NRC | NRC | Salaries and expenses |
| NRC | | |
| OPM | OPM | Salaries and expenses |
| OPM | | Civil service retirement & disability fund |
| SBA | SBA | Salaries and expenses |
| SBA | | Business loan program account |

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| Department/A gency | Bureau | Account |
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| SEC | SEC | Salaries and expenses |
| SSA | SSA | Limitation on administrative expenses |
| DOD* | International Security Assistance | Foreign military financing program |

Continuing Resolution Current Rate Report

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- For seven accounts the current rate appeared not to be applicable for various reasons, e.g., Housing and Urban Development [using 2001 unobligated balances; no 2003 continuing resolution apportionment necessary], civil service retirement & disability fund [administrative funds transferred to S&E account and apportioned there] (see Appendix I for complete list of these accounts).

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Appendix I: Original List of Accounts

Appendix I: Accounts for which current rate calculation is inapplicable

- Corporation for Public Broadcasting/Digital program conversion account: By letter dated November 13, 2002, CPB requested a waiver from OMB apportionment of its payment at the current rate and advised OMB that if it were to operate with a normal apportionment under the terms of the CR its efforts to meet a May deadline for its digital program conversion would be in serious jeopardy. It requested an apportionment of the fiscal year 2002 level of \$25 million. CPB was recently advised by telephone that OMB had apportioned only \$7 million.

Appendix I: Accounts for which current rate calculation is inapplicable

- Department of Transportation, Surface transportation projects – Title III General Provisions § 330 of FY2002 Appropriation: according to Transportation, no fiscal year 2003 appropriations are provided for these projects.
- HUD, Public & Indian Housing Programs/Housing certificate fund: HUD used available FY2001 unobligated balances. No apportionment of fiscal year 2003 budget authority necessary.
- HUD, Public & Indian Housing Programs/Public housing operating fund: HUD used available FY2001 unobligated balances. No apportionment of fiscal year 2003 budget authority necessary.

Appendix I: Accounts for which current rate calculation is inapplicable

- HUD, Community Planning & Development/Community development block grants: HUD used available FY2001 unobligated balances. No apportionment of fiscal year 2003 budget authority necessary.
- HUD, Community Planning & Development/Homeless assistance grants: HUD used available FY2001 unobligated balances. No apportionment of fiscal year 2003 budget authority necessary.
- Civil Service Retirement & Disability Fund: Since this is a trust fund, only the amount for administrative expenses is apportioned. This amount was transferred and is apportioned under OPM's Salaries and expenses account.

Appendix I: Seasonal Rate Accounts

Commerce/NOAA, Procurement, acquisition & construction (9.4%)
Commerce/NOAA, Operations, research & facilities (7.9%)
Commerce/Census, Periodic censuses & programs (10.1%)
Labor/Departmental Management, Salaries & expenses (9.68%)
Labor/ ETA, Community Service Employment for Older Americans (0%)
Labor/ ETA, Training and employment services (0%)

Appendix I: Written Higher Apportionment from OMB

- VA/Medical Care: Based on pro-rata share plus apportionment of unobligated balances because account spends more in first quarter than other quarters
- Commerce/ITA, Operations & Administration: apportionments for various ITA components ranged from 7.6% to 12.7%; the higher apportionment was necessary because the rate of operations is above the seasonal rate but below the flat rate (pro-rata share), to cover increased personnel costs associated with FY 2002 hiring, travel, and International Cooperative Administrative Support (ICASS).
- State/Contributions to International Organization (67%).

Appendix I: Written Higher Apportionment from OMB (cont'd)

- USDA/Food & Nutrition Service, Women, Infants and Children Program (25.21%).
- USDA/Rural Housing Service, Rural housing insurance fund program account: (14.24%); the higher apportionment was necessary because the rate of operations is above the seasonal rate but below the flat rate (pro-rata share).
- HHS, Low Income Home Energy Assistance Program (38%).

Appendix I: Definitions, Legal Language

- What is current rate?
- OMB Bulletin 01-10
- GAO Current Rate Interpretations
- Formula for Current Rate

Appendix I: Definitions, Legal Language Definition of Current Rate

- Sec. 101 Appropriates “Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for fiscal year 2002 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in fiscal year 2002, at a rate for operations not exceeding the current rate, and for which appropriations, funds, or other authority was made available” in the fiscal year 2002 appropriations acts.

Appendix I: Definitions, Legal Language Definition of Current Rate

Furthermore, section 105 of the CR defines “rate for operations not exceeding the current rate” as having the “meaning given such term (including supplemental appropriations and rescissions) in the attachment to Office of Management and Budget Bulletin No. 01-10 entitled ‘Apportionment of the Continuing Resolution(s) for Fiscal Year 2002’ and dated September 27, 2001, applied by substituting ‘FY 2002’ for ‘FY 2001’ each place it appears...”

Appendix I: Definitions, Legal Language Definition of Current Rate

This current rate “does not include any unobligated balance of funds appropriated in Public Law 107-38 and carried forward to fiscal year 2002, other than funds transferred by division B of Public Law 107-117.”

CR Reduces appropriations by one-time, non-recurring items listed in Attachment C, OMB Bulletin dated 10-04-02.

Appendix I: Definitions, Legal Language Definition of Current Rate - OMB Bulletin 01-10

- OMB Bulletin 01-10 instructs agencies that the rate of operations not exceeding the current rate, is to be calculated as follows:
 - take the net amount enacted in FY 2002, i.e., add any supplemental appropriations and subtract any rescissions;
 - add the unobligated balance carried forward to FY 2001 (if any), and
 - subtract the unobligated balance at the end of FY 2002 (if any).

Appendix I: Definitions, Legal Language Definition of Current Rate - OMB Bulletin 01-10

- The OMB Bulletin further instructs agencies to calculate the amount automatically apportioned through the specified period covered by the CR by multiplying the rate (amount) provided by the CR by the lower of:
 - the percentage of the year covered by the CR, or
 - the historical seasonal rate of obligations for the period of the year covered by the CR.
- If a program requires an amount different from the total amount automatically apportioned, an agency must request a written apportionment.

Appendix I: Definitions, Legal Language -- The Formula for Current Rate

Unobligated balances at the end of FY2001
Plus
Appropriations for FY2002
Plus
Supplementals for FY2002
(including the 2nd \$20b.—(tranche 3) of the 9/11 Emergency Supp.)
Minus
Unobligated balances from the 1st \$20b.(tranches 1&2) of the 9/11 Emergency Supp.)
Minus
Rescissions in FY2002
Minus
One-Time Expenditures (per OMB list)
Minus
Unobligated balances that carry over from FY2002

Multiplied by either (1) 14.52% or (2) Seasonal rate